

MEDICAL MALPRACTICE DAMAGES AWARDS

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House Bill 5669

Sponsor: Rep. Joe Haveman

Committee: Judiciary

Complete to 6-6-12

A SUMMARY OF HOUSE BILL 5669 AS INTRODUCED 5/23/12

The bill would establish requirements for verdicts rendered in favor of a plaintiff in a medical malpractice action, separate from the verdicts rendered in personal injury actions under Section 6306 of the Revised Judicature Act (RJA). The bill would also expand the definition of "noneconomic loss."

Section 6306 of the RJA currently requires the court to enter an order of judgment when a verdict is rendered by a trier of fact. The judgment amounts awarded under this section include:

- Past economic damages.
- Past noneconomic damages.
- Future economic damages less collateral source payments reduced to gross present cash value.
- Future medical and health care costs reduced to gross present value.
- Future noneconomic damages reduced to gross present cash value.
- Taxable and allowable costs, including interest.

These amounts are subject to reduction equal to the percentage of fault attributed to the plaintiff.

House Bill 5669 would amend Section 6306 to apply to personal injury cases outside of medical malpractice, and create Section 6306a to cover medical malpractice actions. Requirements for medical malpractice verdicts would be similar to the requirements in Section 6306, with the following changes:

- Collateral source payments are to be accounted for in assessing future economic damages and medical and health care costs.
- Past noneconomic damages are reduced subject to Section 1483.
- When reductions are necessary under this section, the court shall calculate the ratio of past noneconomic damage to future economic damages and allocate deductions proportionally between past and future damage.
- Total judgment amounts would be reduced by the amount of all settlements paid by all joint tortfeasors.

("Collateral source payments" include health insurance, employee benefits, and Social Security, worker's compensation, and Medicare benefits.)

Section 1483 places a two-tier cap on damages for noneconomic loss; the caps are adjusted each year for inflation. Currently the cap is \$424,800, except in specific cases where liability is capped at \$758,500. Specific cases identified are those where there is permanent functional loss of one or more limbs due to injury to the brain or spinal cord, impaired cognitive capacity rendering a plaintiff incapable of independent living, or permanent loss of the ability to procreate.

Currently, the term "noneconomic loss" includes damages or loss due to pain, suffering, inconvenience, physical impairment, or physical disfigurement, or other noneconomic loss. The bill would amend the definition to specifically include: loss of household or other services, loss of society and companionship, and loss of consortium.

FISCAL IMPACT:

The bill would have no significant fiscal impact on state or local government.

Fiscal Analyst: Erik Jonasson

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